

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,339

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Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare closing his food stamps. The issue is whether the Department correctly applied the petitioner's income in accordance with the pertinent regulations.

FINDINGS OF FACT

The facts are not in dispute. In November, 1994, the petitioner reported the earnings that month from his employment. Based on those reported earnings, the Department terminated the petitioner's food stamps. The petitioner takes no issue with the amount of his earnings or the amount of food stamps payable under the regulations in light of those earnings. His dispute is with the fact that the Department counts income in the month in which it is paid, rather than when it is earned. The petitioner maintains that he does not receive his paycheck until several weeks after he actually works those hours. Thus, he claims (although the hearing officer does not understand why this would pose any particular problem to a household), his food stamps do not necessarily reflect his current months needs.

ORDER

The Department's decision is affirmed.

REASONS

The food stamp regulations provide that income is determined according to how much is received by the household in any given month. See Food Stamp Manual § 273.10. Although the petitioner's paychecks may lag several weeks after he actually works the hours for which he is paid, the Department is bound by the regulations to consider his income in the month it is received. Inasmuch as the Department's decision is in accord with the regulations the board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Food Stamp Fair Hearing Rule No. 17.

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